



ORDINANCE NUMBER 2770

AN ORDINANCE OF THE CITY OF FARMERS BRANCH, TEXAS, AMENDING THE COMPREHENSIVE ZONING ORDINANCE OF THE CITY OF FARMERS BRANCH, TEXAS, BY GRANTING A SPECIFIC USE PERMIT TO ALLOW COLLOCATION OF NINE ADDITIONAL CELLULAR ANTENNA PANELS TO BE MOUNTED ON AN EXISTING 80-FOOT TALL MONOPOLE TOWER LOCATED ON A 1.0-ACRE TRACT AT 14400 JOSEY LANE, WITHIN THE LOCAL RETAIL-2 ZONING DISTRICT; PROVIDING FOR A SEVERABILITY CLAUSE; PROVIDING A PENALTY OF FINE NOT TO EXCEED THE SUM OF TWO THOUSAND (\$2,000.00) DOLLARS; PROVIDING FOR INJUNCTIVE RELIEF; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City of Farmers Branch deems it necessary, for the purpose of promoting the health, safety, morals, or general welfare of the City to enact a new zoning ordinance; and

WHEREAS, the City Council has appointed a Planning and Zoning Commission to recommend the boundaries of the various original zoning districts and appropriate regulations be enforced therein and to recommend a new zoning ordinance to amend the Comprehensive Zoning Ordinance; and

WHEREAS, the Planning and Zoning Commission has divided the City into districts and has prepared regulations pertaining to such districts in accordance with a comprehensive plan and designed to lessen congestion in the streets; to secure safety from fire, panic, and other dangers; to promote health, general welfare; to provide adequate light and air; to prevent the overcrowding of land; to avoid undue concentration of population; to facilitate the adequate provision of transportation, water, sewerage, schools, parks, and other public requirements; and

WHEREAS, the Planning and Zoning Commission has given reasonable consideration to, among other things, the character of the districts and their peculiar suitability for particular uses, with a view to conserving the value of buildings and encouraging the most appropriate use of land throughout the City; and

WHEREAS, the Planning and Zoning Commission of the City of Farmers Branch and the City of Farmers Branch City Council, in compliance with the Charter and Code of Ordinances of the City of Farmers Branch, and State law with reference to the granting of changes to the zoning classifications under the Zoning Ordinance Regulations and Zoning Map, have given the requisite notices by publication and otherwise, and after holding due hearings and affording a full and fair hearing to all property owners generally, and to the persons interested and situated in the affected area and in the vicinity thereof, the governing body of the City of Farmers Branch is of the opinion that due to a change in condition and in order to protect the public health, welfare and safety, said change in zoning should be made.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FARMERS BRANCH, TEXAS:

SECTION 1. That all matters stated herein above are found to be true and correct and are incorporated herein by reference as if copied in their entirety.

SECTION 2. That the Comprehensive Zoning Ordinance of the City of Farmers Branch, Texas, be, and the same is hereby amended, by amending the Zoning Map of the City of Farmers Branch so as to grant a Specific Use Permit for collocation of nine additional cellular antenna panels to be mounted at a height of 61 feet on an existing 80-foot tall monopole tower (see Exhibit "A" and Exhibit "B") located on a 1.0 acre tract at 14400 Josey Lane (see Exhibit "C") within the Local Retail-2 zoning district.

SECTION 3. That the above described property shall be used only in the manner and for the purpose provided by the Comprehensive Zoning Ordinance of the City of Farmers Branch as herein amended by the granting of a Specific Use Permit for collocation of nine additional cellular antenna panels to be mounted at a height of 61 feet on an existing 80-foot tall monopole tower situated in accordance with the lease area (see Exhibit "A" and "Exhibit "B") and the approved site plan attached as Exhibit "D" and subject to the following conditions:

1. All missing landscaping elements shown on the landscape plan previously approved with Specific Use Permit Number 244, Ordinance 2311, shall be replaced before a building permit for the proposed antenna installation may be issued.

2. The owner(s) of the existing monopole and the antenna system(s) mounted on the monopole shall remove their respective antenna system(s) and all appurtenances including the monopole and any associated equipment buildings or cabinets within ninety (90) days subsequent to such time that the antennas and/or monopole become obsolete and/or the use is abandoned.

SECTION 4. If any section, paragraph, subdivision, clause, phrase or provision of this ordinance shall be judged invalid or unconstitutional, the same shall not affect the validity of this ordinance as a whole or any portion thereof other than that portion so decided to be invalid or unconstitutional.

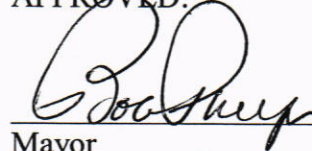
SECTION 5. That any person, firm or corporation violating any of the provisions or terms of this ordinance shall be subject to the same penalty as provided for in the Comprehensive Zoning Ordinance of the City of Farmers Branch, and upon conviction shall be punished by a fine not to exceed the sum of two-thousand (\$2,000.00) dollars for each offense.

SECTION 6. In addition to, and accumulative of all other penalties, the City shall have the right to seek injunctive relief for any and all violations of this ordinance.

SECTION 7. This ordinance shall take effect immediately from and after its passage, as the law in such case provides.

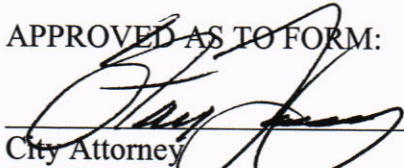
Duly passed by the City Council of the City of Farmers Branch, Texas, on this the 25th day of May 2004.

APPROVED:



Mayor


APPROVED AS TO FORM:



City Attorney

(Reviewed by City Atty. S. Lowry on 4/20/04)

ATTEST:



City Secretary

Lying and situated in the City of Farmers Branch, Dallas County, Texas, the John Nix Survey, Abstract No. 1088, and being part of that certain tract of land described as "1.03 acres" in a deed to Texas Power & Light Co. recorded in Volume 367, Page 472, Deed Records Dallas County, Texas, and being more particularly described as follows;

COMMENCING at the intersection of the north right of way line of Hollendale Road (50 feet wide) and the east right of way line of Josey Lane (100 feet wide) from which a 5/8 inch iron rod found bears S 89°57'15" E 623.86 feet;

THENCE S 89°57'15" E along the north line of Hollendale Road 195.97 feet,
THENCE N 00°14'25" E 43.07 feet to the POINT of BEGINNING;

THENCE N 00°14'25" E a distance of 14.00 feet;
THENCE S 89°45'35" E a distance of 20.00 feet;
THENCE S 00°14'25" W a distance of 14.00 feet;
THENCE N 89°45'35" W a distance of 20.00 feet to the Point of Beginning and containing 280 square feet of land.

Exhibit "A" (Subject Lease Area)

MAR. 16. 2004 3:55PM

DEED SITE

NO. 4504 P. 2

Lying and situated in the City of Farmers Branch, Dallas County, Texas, the John Mix Survey, Abstract No. 1088, and being a part of that certain tract of land described as "1.03 acres" in a deed to Texas Power & Light Co. recorded in Volume 367, Page 472, Deed Records Dallas County, Texas, and being more particularly described as follows:

COMMENCING at the intersection of the north right of way line of Hollendale Road (50 feet wide), and the east right of way line of Jesse Lane (100 feet wide) from which a 5/8-inch iron rod found bears S89°57'15"E, 823.86 feet; Thence S89°37'15"E, along said north right of way line of Hollendale Road 203.02 feet; Thence N00°14'25"E, 51.82 feet to a fence post found and the POINT OF BEGINNING;

THENCE N00°14'25"E, along said fence, 10.01 feet to a fence post found;

THENCE S89°18'41"E, along said fence, 12.96 feet to a fence post found;

THENCE S00°14'25"W, along said fence, 1.80 feet to the northwest corner of an equipment shelter;

The following calls along said equipment shelter with its features:

THENCE S89°27'33"E, 12.04 feet;

THENCE S00°14'25"W, 4.18 feet;

THENCE S89°45'35"E, 1.40 feet;

THENCE S00°14'25"W, 3.50 feet;

THENCE N89°45'35"W, 1.40 feet;

THENCE S00°14'25"W, 0.50 feet;

THENCE N89°27'34"W, 5.30 feet;

THENCE S00°32'26"W, 0.90 feet;

THENCE N89°27'34"W, 4.11 feet;

THENCE N00°32'26"E, 0.90 feet;

THENCE N89°27'32"W, 2.63 feet to the southwest corner of said equipment shelter;

THENCE N89°27'34"W, along a fence line, 12.96 feet to the point of beginning and containing 238.33 square feet of land more or less.

Exhibit "B" (Existing Tower Lease Area)

Being a tract of land situated in the John Nix Survey, Abstract No. 1088, City of Farmers Branch, Texas, and being more particularly described as follows:

BEGINNING at a point in the East line of Josey Lane, (a 100' R.O.W.), said point being S 01° 04' W, a distance of 300.03 feet from the southwest corner of a Wade Fyke 10.00 acre tract conveyed to the Carrollton Independent School District, and iron stake for a corner;

THENCE S 89° 39' E, leaving said Josey Lane East line and proceeding a distance of 300.00 feet to an iron stake for a corner;

THENCE S 01° 04' W, a distance of 150.00 feet to an iron stake for a corner;

THENCE N 89° 39' W, a distance of 300.00 feet to an iron stake for a corner;

THENCE N 01° 04' E, proceeding along said Josey Lane East line and said fence line a distance of 150.00 feet to the Point of Beginning and containing 1.03 acres of land.

NOTE: THE ABOVE PROPERTY DESCRIPTION IS SHOWN SUBSTANTIALLY AS IT APPEARS IN THE DEED TO TEXAS POWER & LIGHT CO. RECORDED IN VOL. 367 PG.472 D.R.D.C.T.

Exhibit "C" (Subject Property)

Page 10 of 13

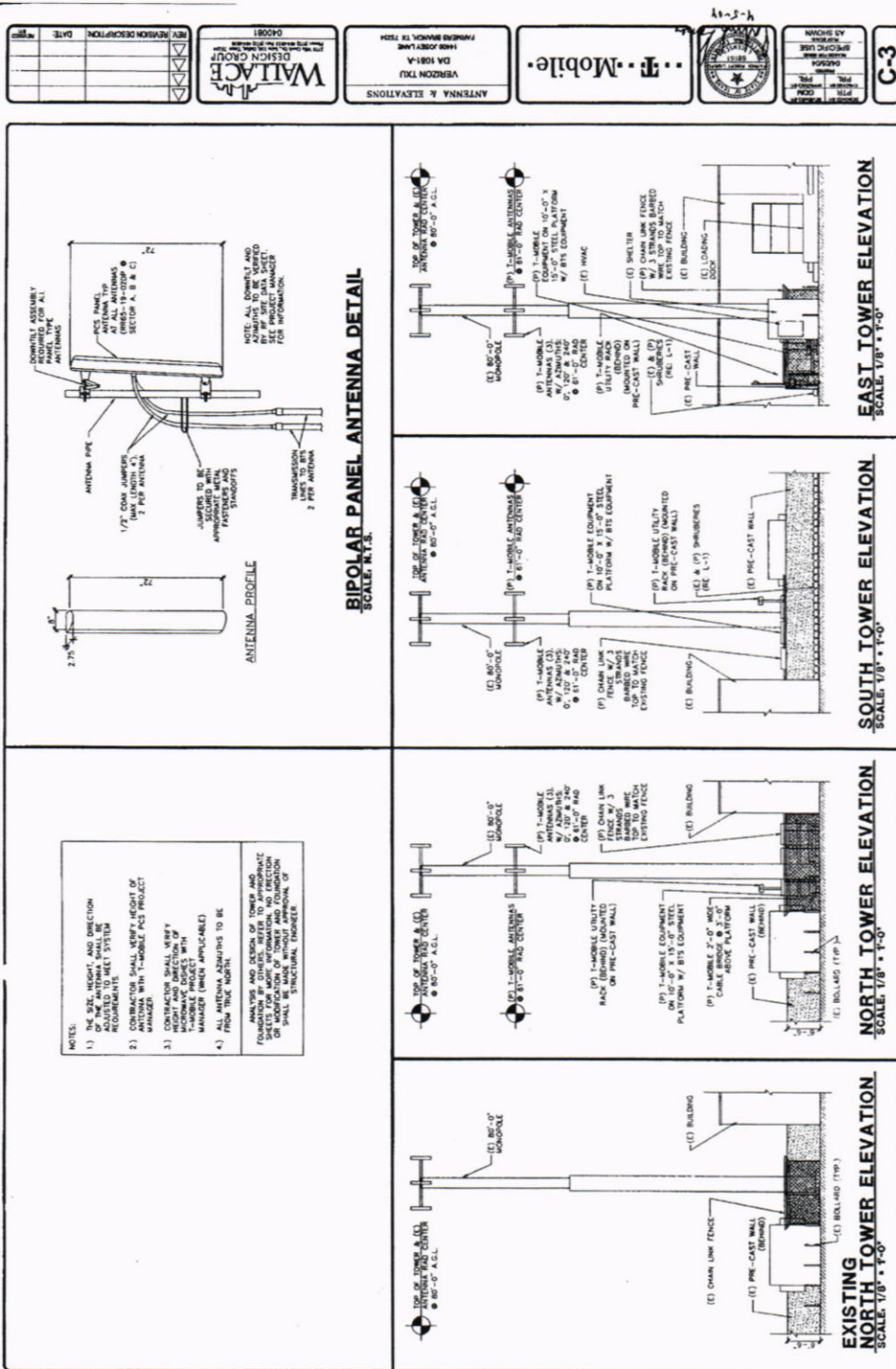


Exhibit "D" (Associated site plan) (Continued)

1.1. ENCLOSURE/ILLUSTRATION 3.00000001

| Qty. | Common Name | Size/Remarks |
|---------------|-------------------------|---------------------------|
| Trees | | |
| 10 | Live Oak | 3 1/2-4" Cal. Full Canopy |
| 4 | Aristocrat Pear | 3 1/2-4" Cal. Full Canopy |
| Shrubs | | |
| 65 | Nellie R. Stevens Holly | 5G |
| 50 | Burford Holly | 5G |
| 30 | Compact Abelia | 5G |
| 30 | Deer Burford Holly | 5G |
| 9 | Red-Tipped Photinia | 5G |

Landscape contractor to remove existing vegetation in designated areas and incorporate 4" of organic compost (Living Earth Technology Co. or equal) into soil prior to shrub planting. Install 2" depth of premium structured hardwood mulch (Living Earth Tech. or Equal.)

**Affected areas to be watered by automatic irrigation system.

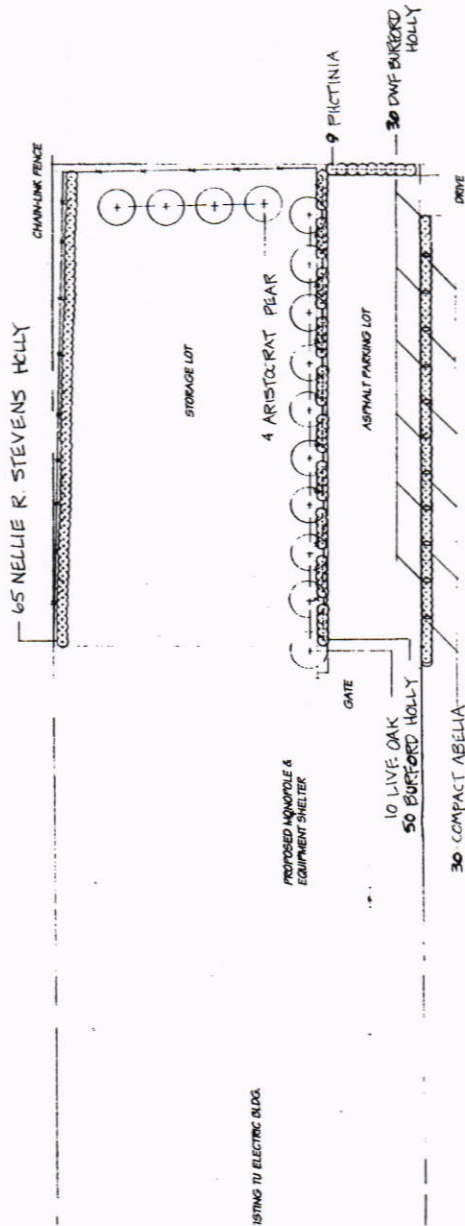


Exhibit "D" (Associated site plan) (Continued)

[illegible]

Exhibit "D" (Associated site plan) (Continued)